

The Commonwealth of Massachusetts

JOURNAL OF THE HOUSE.



THURSDAY, JANUARY 28, 2010.

[10] *

JOURNAL OF THE HOUSE.

Thursday, January 28, 2010.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, at the beginning of today's formal legislative session, in prayer we turn our attention and thoughts to You and spiritual realities. Our intention for this and everyday is to serve You, our constituents and our families in a faithful and generous manner. Amid the uncertainties of these times and the changes in our culture, may we have clarity of thought, peace of mind and serenity of spirit. Inspire us, as a society, to reason together in addressing issues and to plan together for the present and the future well-being of the people and the Commonwealth. Grant us the intellectual strength, moral courage and love of truth to remain faithful to our ideals, goals and religious beliefs. May we also be alert to the needs of people and open to the suggestions of all people in our districts.

Grant Your blessings to the Speaker, the members and employees of this House and their families.

Prayer.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Messages from the Governor.

A message from His Excellency the Governor submitting the annual budget of the Commonwealth for the fiscal year beginning July 1, 2010 (House, No. 2) was filed in the office of the Clerk on Wednesday, January 27.

General
appropriation bil.
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The message was read; and it was referred, under Rule 30, with the accompanying schedules, to the committee on Ways and Means.

A message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2010 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4444) was filed in the office of the Clerk on Wednesday, January 27.

Supplemental
appropriations.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

A message from His Excellency the Governor recommending legislation relative to providing for the health care needs of children with child support orders and the enforcement of child support (House, No. 4445) was filed in the office of the Clerk on Wednesday, January 27.

Child support,—
health care.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on the Judiciary. Sent to the Senate

for concurrence.

A message from His Excellency the Governor recommending legislation relative to reforming community supervision of criminal defendants and offenders by establishing the department of community supervision within the Executive Office of Public Safety and Security (House, No. 4446) was filed in the office of the Clerk on Wednesday, January 27.

Criminals,—
supervision.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on the Judiciary. Sent to the Senate for concurrence.

A message from His Excellency the Governor recommending legislation relative to providing for the modernization and sustainability of the pension system (House, No. 4440) was filed in the office of the Clerk on Tuesday, January 26.

Pension
system.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Public Service. Sent to the Senate for concurrence.

*Message from the Governor – Reorganization Plan
No. 1 of 2010.*

A message from His Excellency the Governor submitting (under Article LXXXVII of the Amendments to the Constitution) Reorganization Plan No. 1 of 2010, relative to reorganizing certain agencies of the Executive Department (House, No. 4447) was filed in the office of the Clerk on Wednesday, January 27.

Reorganization
Plan No. 1.

The message was read; and it was referred, under Article LXXXVII and Joint Rule 23A, with the accompanying draft of a bill, to the committee on State Administration and Regulatory Oversight. Sent to the Senate for concurrence.

Statement Concerning Representative Spiliotis of Peabody.

A statement of Mr. Mariano of Quincy concerning Ms. Spiliotis of Peabody was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Spiliotis of Peabody, is unable to be present in the House Chamber for today's sitting due to a long-standing family commitment. Her missing of roll calls today will be due entirely to the reason stated.

Statement
concerning Ms.
Spiliotis of
Peabody.

Statement Concerning Representative Wallace of Boston.

A statement of Mr. Mariano of Quincy concerning Mr. Wallace of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Wallace of Boston, is unable to be present in the House Chamber for today's sitting due to illness. His missing of roll calls today will be due entirely to the reason stated.

Statement
concerning Mr.
Wallace of
Boston.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85,

to the committee on Rules:

Resolutions (filed by Mr. Fernandes of Milford) congratulating Mark Fitzgerald on earning the Eagle Scout Award;

Resolutions (filed by Mr. Fernandes of Milford) congratulating Michael Kowal on earning the Eagle Scout Award;

Resolutions (filed by Miss Garry of Dracut) recognizing February 7 through 14 as Congenital Heart Defect Awareness Week;

Resolutions (filed by Mr. Naughton of Clinton) recognizing Colonel Joel Jay Berner's dedication as Commander of the Third Legal Support Organization;

Resolutions (filed by Mr. Nyman of Hanover) congratulating Mr. and Mrs. Richard Stoddard on the happy occasion of their fiftieth wedding anniversary;

Resolutions (filed by Representatives Poirier of North Attleborough, Barrows of Mansfield and Kafka of Stoughton) on the occasion of the observance of National Catholic Schools Week by Saint Mary's School in Mansfield;

Resolutions (filed by Representatives Provost of Somerville, Sciortino of Somerville and Toomey of Cambridge) congratulating the Somerville Road Runners on their fifteenth anniversary;

Resolutions (filed by Messrs. Ross of Wrentham and Rosa of Leominster) congratulating James Andrews on the occasion of his retirement;

Resolutions (filed by Mr. Rush of Boston) celebrating John Kelly of West Roxbury on the occasion of his eightieth birthday;

Resolutions (filed by Ms. St. Fleur of Boston) honoring Janet Jones;

Resolutions (filed by Ms. Wolf of Cambridge) commemorating the American Heart Association on its celebration of February as American Heart Month; and

Resolutions (filed by Ms. Wolf of Cambridge) congratulating the Cambridge School for Cambodia Project on the opening of a school in Cambodia;

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Costello of Newburyport, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Initiative Petitions.

Initiative petition of Frank J. Anzalotti and others for the passage of An Act to repeal the sales tax on alcohol (House, No. 4454) (received on January 7, 2010, from the Secretary of the Commonwealth, having been transmitted by him to the Clerk of the House of Representatives as required by Article XLVIII of the Amendments to the Constitution), was referred, under said Article and Rule 24, to the committee on Revenue. Sent to the Senate for concurrence.

Initiative petition of John V. Belskis and others for the passage of An Act relative to comprehensive permits and regional planning (House, No. 4455) (received on January 7, 2010, from the Secretary of the Commonwealth, having been transmitted by him to the Clerk of the House of Representatives as required by Article XLVIII of the Amendments to the Constitution), was referred, under said Article and Rule 24, to the committee on Housing. Sent to the Senate for concurrence.

Initiative petition of Carla A. Howell and others for the passage of An Act

Mark
Fitzgerald.

Michael
Kowal.

Heart Defect
Awareness Week.

Joel Jay
Berner.

Richard and
Marilyn Stoddard.

Mansfield,—
St. Mary's School.

Somerville Road
Runners.

James
Andrews.

John
Kelly.

Janet
Jones.
American Heart
Month.

Cambridge School
Cambodia Project.

Sales tax
on alcohol.

Housing permits
and regional
planning.

Sales tax.

known as the 3% sales tax relief act (House, No. 4456) (received on January 7, 2010, from the Secretary of the Commonwealth, having been transmitted by him to the Clerk of the House of Representatives as required by Article XLVIII of the Amendments to the Constitution), was referred, under said Article and Rule 24, to the committee on Revenue. Sent to the Senate for concurrence.

Initiative petition of James A. Peyser and others for the passage of An Act to increase quality and parental choice in public education by expanding enrollment in high-quality charter public schools (House, No. 4457) (received on January 7, 2010, from the Secretary of the Commonwealth, having been transmitted by him to the Clerk of the House of Representatives as required by Article XLVIII of the Amendments to the Constitution), was referred, under said Article and Rule 24, to the committee on Education. Sent to the Senate for concurrence.

Charter
schools.

Initiative petition of Susan E. Laing and others for the passage of An Act to limit carbon dioxide emissions from renewable and alternative energy sources (House, No. 4458) (received on January 7, 2010, from the Secretary of the Commonwealth, having been transmitted by him to the Clerk of the House of Representatives as required by Article XLVIII of the Amendments to the Constitution), was referred, under said Article and Rule 24, to the committee on Telecommunications, Utilities and Energy. Sent to the Senate for concurrence.

Renewable
energy and
carbon
emissions.

Petitions.

Petitions severally were presented and referred as follows:

By Ms. Reinstein of Revere, petition (accompanied by bill, House, No. 4448) of Kathi-Anne Reinstein (with the approval of the mayor and city council) relative to the filling of a vacancy in the office of mayor in the city of Revere. To the committee on Election Laws.

Revere, —
filling vacancy.

By Mr. Kaufman of Lexington, petition (accompanied by bill, House, No. 4449) of Jay R. Kaufman and James Dwyer (with the approval of the mayor and city council) relative to the use of a certain parcel of land in the city of Woburn for recreational purposes.

Woburn, —
parcel of land.

By Representative Turner of Dennis and Senator O'Leary, joint petition (accompanied by bill, House, No. 4450) of Cleon H. Turner and Robert A. O'Leary (by vote of the town) that the town of Brewster be authorized to use a portion of town owned land for renewable energy projects.

Brewster, —
energy projects.

Severally sent to the committee on Municipalities and Regional Government.

By Representative Smizik of Brookline and Senator Creem, joint petition (accompanied by bill, House, No. 4451) of Frank I. Smizik, Cynthia Stone Creem and others (by vote of the town) relative to health insurance coverage for retired employees of the town of Brookline. To the committee on Public Service.

Brookline,—
retired employees.

Severally sent to the Senate for concurrence.

Ms. Gobi of Spencer presented a petition (subject to Joint Rule 12) of Anne M. Gobi, Stephen M. Brewer and James J. O'Day that the Department of Children and Families be authorized to establish a sick leave bank for Elizabeth J. Lynch, an employee of said department; and the same was referred, under Rule 24, to the committee on Rules.

Elizabeth Lynch,—
Sick leave.

Mr. Binienda of Worcester, for the committee on Rules and the committees on

Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Mariano of Quincy, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Mr. Rogers of Norwood presented a petition (subject Joint Rule 12) of John H. Rogers for legislation to establish a sick leave bank for Stephen R. Fratalia, an employee of the Department of Probation; and the same was referred, under Rule 24 to the committee on Rules.

Stephen R.
Fratalia,—
sick leave.

Papers from the Senate.

The Senate Bill relative to vocational education (Senate, No. 253, amended) came from the Senate with the endorsement that said branch had concurred with the House in its amendment (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4406) with a further amendment, striking out all after the enacting clause and inserting in place thereof the following:

Vocational
education.

“The commissioner of elementary and secondary education may approve the establishment of 2 pilot vocational-technical education programs in criminal justice, 1 of which shall be by the Greater New Bedford Regional Vocational Technical High School and 1 of which shall be by Quincy High School. The purpose of the pilot programs shall be to determine the feasibility and cost of establishing criminal justice as a vocational-technical education program under chapter 74 of the General Laws. Students enrolled in the pilot programs shall be considered to be enrolled in an approved vocational-technical education program for all purposes; provided, however, that those students shall not be included within the definition of vocational enrollment in section 2 of chapter 70 of the General Laws for funding purposes. The qualifications of the teachers shall be subject to approval by the commissioner. The department of elementary and secondary education shall report its recommendations regarding the feasibility and costs of establishing criminal justice as a vocational-technical education program under chapter 74 of the General Laws to the general court by June 30, 2013.”.

Under suspension of Rule 35, on motion of Ms. Walz of Boston, the further amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill relative to the collection of unpaid municipal fines (House, No. 3588, amended) came from the Senate passed to be engrossed, in concurrence, with an amendment after line 36 striking out the following subsection:

Unpaid
municipal
fines.

“Section 8A. A municipal officer charged with enforcement of this section shall make a good faith attempt to locate the violator of this provision prior to issuing a violation or fine.” (inserted by amendment by the House).

Under suspension of Rule 35, on motion of Mr. Pedone of Worcester, the further amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Reports of Committees.

By Mr. Binienda of the Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Joint petition (accompanied by bill) of James M. Cantwell and Robert L. Hedlund for legislation to increase the penalty imposed on operators of motor vehicles involved in police chases. To the committee on Public Safety and Homeland Security.

Police chases,—
unused or expired.

Petition (accompanied by bill) of Paul J. Donato relative to the classification of disabled fire fighters as “conditional employees” as a precondition of reinstatement as a fire department employee. To the committee on Public Service.

Disabled
firefighters.

Under suspension of the rules, on motion of Mr. Mariano of Quincy, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the House Bill authorizing the Commissioner of Capital Asset Management and Maintenance to convey certain land to the town of Concord Housing Development Corporation (House, No. 4340) ought to pass with an amendment substituting therefore a bill with the same title (House, No. 4442). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Mr. Kafka of Stoughton, for said committee reported that the matter be scheduled for consideration by the House, with the amendment pending.

Concord
Housing
Development
Corporation.

Under suspension of Rule 7A, on motion of Ms. Atkins of Concord, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means was adopted; and the substituted bill was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. The bill (House, No. 4442) then was sent to the Senate for concurrence.

By Ms. Stanley of West Newbury, for the committee on Health Care Financing, on Senate, No. 2170 and House, No. 4331, a Bill relative to an affordable health plan. (House, No. 4452). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Health
plans.

Engrossed Bill.

The engrossed Bill relative to the Board of Public Accounting and regulating the Registry of Certified Public Accountants (see House, No. 4159, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill
enacted.

Recess.

At twenty-four minutes before twelve o'clock noon, on motion of Mr. Pedone of Worcester (Mr. Donato of Medford being in the Chair), the House recess until the hour of one o'clock P.M.; and at that time the House was called to order with Mr.

Recess.

Donato in the Chair.

Address of Speaker Robert A. DeLeo of Winthrop.

The address of Speaker DeLeo of Winthrop was spread upon the records of the House, on motion of Mr. Pedone of Worcester, as follows:

Address of
Speaker DeLeo.

My fellow representatives, one year ago you elected me to be your Speaker of the House and today I'd like to take a few moments to reflect on this challenging year and talk a bit about the coming one.

First, I'd like to thank you, my colleagues for bestowing upon me the highest honor of my professional career, the honor of serving as the Speaker of the House.

Make no mistake; the last year has been a very tough year for our fellow citizens in the nation and our great state. While there appears to be light at the end of the tunnel, it is unclear how quickly this will translate to better times for our citizens. Today, it's abundantly clear, we must, as a body, concentrate on jobs and the economy as we continue to cooperate with the other branches of state government to make the kinds of tangible, cost saving reforms that the public expects and deserves. There are signs of a recovery in the air and confidence is returning to the markets. Now we have to do our part to make this happen for the citizens of Massachusetts that each of us represents.

First, let me make this clear at the very beginning, the budget we will propose this spring will not include a tax increase. Citizens are already living paycheck to paycheck and stretching their dollar as far as humanly possible. We cannot and will not ask them to do more.

Remember, had the gas tax passed and toll increases gone through a family with two drivers would have paid \$832 more a year to get to their jobs, harbor tunnel users \$1,800 more and Metro West drivers \$780 more.

We will continue to look for reforms to our government and its programs that will result in savings. For example, last year we reformed the entire state transportation system. We drove a stake through the heart of the Mass Turnpike Authority and eliminated a quasi-governmental agency that was out of financial control. In addition, we reformed the state pension system. Taken together, these two economic reforms will save the state \$6.5 billion dollars over the next two decades.

And, let's remember. We addressed ethics issues, which hadn't been touched in decades.

I want to say a special thanks to all of you, and, in particular, the chairpeople who have put their own unique stamp on the legislation we have passed.

And, while we don't hear much about it, we in Massachusetts -- the House, the Senate under the leadership of President Murray, and Governor Patrick -- handled our budget with more compassion and efficiency than other states. Through a combination of cuts, revenue enhancements and reforms, we produced a budget that won the praise of the bond rating agency Moody's, which cited our state's "effective management through a period of fiscal strain...in the current recession." Additionally, Fitch lauded our "prudent financial management."

Finally, the education bill we passed earlier this month was the most significant education reform since 1993 and puts us in a position to capture \$250 million dollars in "Race to the Top" money. Again, in the context of an international economic crisis, the speed, cooperation, and will we demonstrated as a body stands in contrast to other states.

That was last year; now let's talk about the future, about jobs, the economy and what we can do to help.

I crisscrossed the state last year and that's what I plan to do again this year as well. I talked about jobs then and I'll continue to talk about them – until we get our citizens working again. I am launching a listening tour to solicit input from our citizens, to solicit ideas and issues from every corner of the state and I plan to share a few of my own.

Last fall, I visited Calloway Golf Company in Chicopee, which used workforce development monies to retrain their workers to operate new high-tech equipment. Without that funding, the Commonwealth would have lost those jobs forever.

Take FLEXcon, a Spencer-based manufacturer of pressure sensitive films and adhesives for more than 1,000 products. FLEXcon used training funds to implement Lean Manufacturing principles, which have saved the company money and permitted it to compete at a time of rising energy and material costs.

Back in 2005, another Massachusetts company – General Metal Finishing – had lost as much as 25% of its customer base and faced the possibility of cutting 100 jobs. A Workforce Training Fund grant allowed the company to control their costs and saved these vital jobs.

Through the beginning of this year, more than \$175 million in grants has been awarded to train almost a quarter-million workers through the Workforce Training Fund.

Given the importance of jobs in our economy, I am committed to full funding of workforce development programs in the next fiscal year and I will seek to restore funding for Fiscal Year 10 as well.

In our effort to continue to build the workforce of tomorrow, I want to maximize the return on our investment in vocational technical high schools, community colleges and the entire higher education system. We can and must tie our technical high schools and the community college system more directly to specific industries like bio technology and health care as well as other emerging fields such as renewable energy and the green technologies.

I know this kind of coordination isn't revolutionary, it's just hard work, but it's work I'm willing to see through to the end because I believe in the notion that a well educated workforce is our greatest natural resource. This one unique characteristic has defined us as a state in the past and must continue to do so in the future.

While we fight to get jobs for those who don't have them and keep others working, we remain concerned about those who rely on unemployment insurance to survive. We must also seek to lessen the burden on our businesses, which fund our unemployment system. Unemployment insurance rates by employers are scheduled to skyrocket this spring. This is unacceptable.

These types of ideas are critical to our long term economic health and to maximizing the benefits of a recovering economy. In the short term, as a Northeastern University study recently recommended, I will work with the governor to expedite the release of the remaining stimulus money to go into projects that will provide the quickest employment opportunities.

We can and we must do more!

We can challenge those sectors of our economy that provide the most jobs – our private and public institutions of higher education and our hospitals – to go forward with their planned expansion projects sooner rather than later. I further call on local and state permitting authorities to recognize the importance of getting these projects going as quickly as possible.

We have a tough budget year coming up. Finding the resources to do some of

the things necessary to create jobs and opportunities will continue to be difficult. That's why I'm open to every idea that could generate state revenue and jobs. The debate over the destination gaming issue is not a philosophical one. It is about a fight for job creation. It is a fight to expand our tourist attractions which in turn help to drive our economy. It is a fight to get shovels planted in the ground. To win this fight, I will make sure that any gaming legislation will require the creation of permanent jobs.

I am aware of the importance of putting young people to work during the summer. I will call upon – and ask that you make a similar request – to the businesses in your home communities to provide summer jobs to our young people.

One way we can all help our local businesses is to encourage our constituents to seek out and use local businesses. Not only do I, for example, get excellent services by buying locally, I know I am helping to keep people in Winthrop and Revere working.

Finally, despite the scope of our accomplishments this past year, we cannot, we must not, rest. With so many of our fellow citizens out of work, we have a great task in front of us. I will ask each of you to dedicate yourselves to the cause of getting the people of the Commonwealth back to work.

Thank you.

Reports of Committees.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the House Bill relative to school nutrition (House, No. 4438) ought to pass with an amendment substituting therefore a bill with the same title (House, No. 4441). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Mr. Kafka of Stoughton, for said committee reported that the matter be scheduled for consideration by the House, with the amendment pending.

School
nutrition.

Under suspension of Rule 7A, on motion of Mr. Koutoujian of Waltham, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means was adopted; and the substituted bill (House, No. 4441) was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Sánchez of Boston, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After debate on the question on passing the bill to be engrossed, Mr. Koutjouian of Waltham and other members of the House moved to amend it in line 53 by striking out the word “and” (the second time it appears) and in line 54, after the word “foods”, by inserting the following: “; (4) the times of the school day during which the guidelines shall apply”.

The amendments were adopted.

Mr. Koutjouian and other members of the House then moved to amend the bill in line 54, after the word “apply” (inserted by amendment) by inserting the following: “; and (5) adequate amounts of time for school lunch periods”.

The amendment was adopted.

Mr. Koutjouian of Waltham and other members of the House then moved to amend the bill in line 54, after the word “periods” (inserted by amendment) by inserting the following: “; provided, however, that the departments shall create reasonable exceptions from said standards and guidelines for competitive foods or beverages sold before or after the end of the school day, during school-sponsored

fundraisers and events, at booster sales, concession stands and other activities at school-related events.”.

The amendment was adopted.

Mr. Peterson of Grafton and other members of the House then moved to amend the bill by inserting after section 6 the following section:

“SECTION 6A. (a) The department of agricultural resources in collaboration with the department of elementary and secondary education shall collect data including, but not limited to: (1) school districts and other educational institutions interested in purchasing Massachusetts’ farm products; (2) the type and amount of such products schools wish to purchase; (3) the name of the appropriate contact person from the interested school district; (4) farm organizations and businesses that market Massachusetts’ farm products; and (5) the availability of Massachusetts’ farm products by type and amount of the product, the names and contact information of farmers and farm organizations and businesses marketing such products.

(b) Based upon the data collected pursuant to paragraph (a), the department of agriculture in collaboration with the department of elementary and secondary education shall work with programs that facilitate acquisition of local agricultural products by public schools, including the Massachusetts Farm to School Project, to develop a mechanism and process by which schools interested in purchasing Massachusetts’ farm products may notify farms; provided that such a process ensures fair opportunities for all farms interested in selling products to schools; and provided further that fair negotiation and pricing processes are established for purchasing and selling of Massachusetts’ farm products to schools.

(c) A report shall be made to the governor, the speaker of the house of representatives, the president of the senate, the joint committee on education; the joint committee on public health, and the house and senate chairs of the joint committee on environment, natural resources and agriculture that details the results of the data collected, the steps taken to comply with paragraph (b) and any recommendations, together with drafts of legislation necessary to carry recommendations into effect on or before March 1, 2011.”; and by inserting after section 7 the following two sections:

“SECTION 7A. Section 4 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out the figure ‘\$25,000’, in line 17, and inserting in place thereof the following figure:- \$50,000.

SECTION 7B. Notwithstanding any general or special law to the contrary, and to the extent permitted by federal law, the trustees or officers of a state college or university designated by them, when purchasing products of agriculture as defined in section 1A of chapter 128 of the General Laws, including but not limited to, fruits, vegetables, eggs, dairy products, meats, crops, horticultural products or products processed into value added products as part of a Massachusetts farm operation, shall, to the extent feasible, prefer such products grown in the commonwealth or products produced using products grown in the commonwealth as well as fish, seafood, and other aquatic products.”.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Mr. Koutoujian of Waltham; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 153 members voted in the affirmative and 0 in the negative.

[See Ye and Nay No. 283 in Supplement.]

Therefore the amendments were adopted.

Ms. Callahan of Sutton and other members of the House then moved to amend

Amendment
adopted,—
yea and nay
No. 283.

the bill by inserting after section 7B (inserted by amendment) the following two sections:

“SECTION 7C. Chapter 71 of the General Laws is hereby amended by inserting after section 54B the following section:-

Section 54C. The school committee of each school district shall establish a local school health education advisory council to assist the district in ensuring that local community values are reflected in the district’s health education instruction and wellness programs.

A school district shall consider the recommendations of the local school health education advisory council before changing the district’s health education curriculum or instruction.

The local school health advisory council’s duties include recommending:- (a) the number of hours of instruction to be provided in health education; (b) health education curriculum appropriate for specific grade levels that shall incorporate the Massachusetts Comprehensive Health Curriculum Framework and that may include a coordinated health education program consistent with guidelines based on the American School Health Association’s Comprehensive School Health Program and the Center for Disease Control and Prevention coordinated school health program designed to prevent obesity, cardiovascular disease, and Type II diabetes through coordination of the following nine elements:

- (i) health services;
- (ii) health education;
- (iii) school nutrition services;
- (iv) physical education;
- (v) healthy school environment;
- (vi) school counseling;
- (vii) school psychological and social services;
- (viii) staff health and wellness; and
- (ix) family and community involvement.

The school committee shall appoint members to the local school health advisory council. A majority of the members must be persons who are parents of students enrolled in the district and who are not employed by the district. The board of trustees also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified under this subsection: public school teachers, public school administrators, students, licensed health care professionals, the business community, law enforcement, senior citizens, the clergy and nonprofit organizations.

The department of education shall monitor and act as a clearing house for the activities of the local school health advisory councils.

The department shall also notify each school district of the availability of professional development opportunities on school health issues.

Each local school district shall develop an action plan prepared in collaboration with the local school health advisory council to assist in implementation of health education and wellness policies. The action plan shall identify steps that need to be taken each year to fully implement the policy and shall include a review and appropriate modification of existing physical education and health curricula.

SECTION 7D. The department of education shall conduct a cost analysis study under the direction of the commissioner and the advisory board established pursuant to section 12 of chapter 6 to identify the annual costs associated with continuously funding comprehensive health education resources to be used by local

health advisory councils to assist in meeting district health education action plans, goals and objectives. The study shall be completed and reported to the general court and the governor by April, 2011.

The department shall also notify each school district of the availability of professional development opportunities and resources in school health education issues.”.

After remarks the amendment was rejected.

Mr. Koutoujian of Waltham then moved to amend the bill by adding the following section:

“SECTION 9. The department of public health shall investigate the utility of developing and implementing pilot initiatives to reduce childhood obesity through school-based, behavioral and incentive-driven programs such as iMove, Planet Health, and others. The department shall report on the findings of this investigation no later than 18 months after the effective date of this act.”.

The amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out section 5 and inserting in place thereof the following section:

“SECTION 5. There is hereby established a commission on childhood obesity which shall be responsible for developing a statewide plan to reduce childhood obesity through the promotion of evidence-based programs to provide proper nutrition and exercise for the children of the commonwealth. Said commission shall make a comprehensive review of current evidence-based research and programs that promote proper nutrition for children at each stage of development as well as appropriate levels of physical education and activity for all children. Said programs shall, insofar as possible, involve parents and families to ensure that the effort to reduce childhood obesity is not limited to time in school.

The commission shall be co-chaired by the commissioners of the departments of public health, elementary and secondary education, and early education and care, or their designees; and shall include: the commissioner of mental health or his designee; the commissioner of medical assistance or his designee; the commissioner of agricultural resources or his designee; the commissioner of transitional assistance or his designee, the commissioner of insurance or his designee; the chair of the statewide student advisory council or his designee; 5 members appointed by the governor, 1 of whom shall be an expert in childhood nutrition, 1 of whom shall be an expert in exercise and fitness and 1 of whom shall be an expert in eating disorders; two members to be appointed by the senate president; one member to be appointed by the senate minority leader; two members to be appointed by the speaker of the house of representatives; and one member to be appointed by the house minority leader. Said commission members shall serve without compensation.

In developing said statewide plan to reduce childhood obesity, the commission shall consider such concepts as:

- (a) Developing and implementing a method for evaluating annual progress toward the goals of the statewide plan; and
- (b) Making recommendations to the governor and General Court relative to the revision of school nutrition standards in coordination with ongoing efforts pursuant to section (e) of section 90 of chapter 71.

The commission shall annually assess the progress in the state toward reducing childhood obesity, make recommendations relative to the reduction of childhood obesity rates taking into consideration the ongoing efforts to evaluate the appropriateness of maintaining leading nutritional standards in public schools

pursuant to subsection (e) of section 223 of chapter 111 of the General Laws and provide a copy of the statewide plan and drafts of legislation necessary to carry its statewide plan into effect, including an estimate the fiscal impact of the statewide plan, if any, by filing the same with the governor, the house and senate committees on ways and means, the joint committee on public health and the joint committee on education.”.

The amendment was adopted; and the bill was referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Mr. Binienda of Worcester, for said committees, then reported recommending that the foregoing bill ought to pass.

Under suspension of the rules, on motion of Mr. Sánchez of Boston, the bill was considered forthwith, the question being on passing the bill, as amended, to be engrossed, in concurrence.

Ms. L’Italien of Andover then moved to amend the bill in section 5 (inserted by amendment), at the end of clause (a), by striking out the word “and”, and in clause (b) by striking out the figures “71.” and inserting in place thereof the following: “71; and

(c) recommending that school districts hold recess before lunch so that students can build up an appetite, make nutritious choices and battle against childhood obesity”.

The amendments were adopted.

Ms. Khan of Newton then moved to amend the bill by adding the following section:

“SECTION 10. Chapter 71 of the General Laws as appearing in the 2004 Official Edition is hereby amended by adding at the end thereof, the following sections:—

1. (a) The Department of Elementary and Secondary Education in collaboration with the Department of Public Health shall promulgate regulations requiring all school districts including local and regional districts to convene a School Wellness Advisory Committee that shall in accordance with federal laws and regulations to develop and to recommend to the superintendent of schools and school committee a school district wellness policy addressing school nutrition, nutrition education, and physical activity. The committee shall include, but need not be limited to, school committee members, school administrators, school nurses, food service directors, food service staff, parents of students in the school district, students, physical and health education teachers, dietitians, health care professionals and interested community members. Existing committees shall qualify as a School Wellness Advisory Committee as long as they meet the standards in this section.

(b) The Department of Elementary and Secondary Education may promulgate regulations and minimum standards to provide guidance for said committees to develop school district wellness policies. These committees shall solicit input from parents, teachers, students and community members and shall hold at least 1 public hearing in the local or regional school district. The policies adopted by said committee may address issues and goals, including, but not limited to all of the following:

Implementing the nutritional standards set forth by the United States Department of Agriculture and state laws and regulations;

Improving nutritional standards by increasing the availability of fresh fruits and vegetables, including provisions that encourage schools to make fruits and vegetables available at all locations where food is sold and ensuring, to the extent possible, that the food is served is fresh;

Considering the diverse religious and cultural preferences and requirements in food among the student body as well as food allergies;

Ensuring that all food served to students throughout the day and after student meets federal and state food safety requirements;

Integrating requirements for Physical Education classes in Grades K-12. Physical Education shall be not less than 150 minutes per week at the elementary level and 225 minutes per week in middle and high school levels;

Ensuring regular professional development for food services staff meets the requirements laid out by the American Dietetic Association and the School Nutrition Association including but not limited to training for food services staff to integrate state and federal nutrition standards into meals and snacks provided to students;

Ensuring that nutrition education include strategies for children to understand and engage in healthy eating habits as well as components relating to the medical and behavioral implications of unhealthy eating, not limited to risk of type 2 diabetes, heart disease, kidney disease, stroke and cancer;

Improving the quality of physical education curricula by including classroom lectures which identify the benefits of physical activity and health as well as selecting physical activities which encourage students to exercise their large muscle groups;

Creating and enforcing physical education requirements to promote healthful levels of vigorous physical activity;

Implementing a Safe Routes to School, hereinafter referred to as SRTS program, pursuant to the federal SAFETEA-LU Strategic Highway Safety Plan, 23 U.S.C. 148 to encourage those students who reside within walking, 1 mile, or bicycling, 3 miles, distance from school to take these active modes of transportation to and from school. The SRTS program can include both educational and encouragement elements, and may also entail work with the local municipality to implement infrastructure improvements such as improved street crossings, traffic calming, new or repaired sidewalks, or bicycle/walking paths. Schools and school districts shall call on SRTS program housed with the Executive Office of Transportation for assistance in the development of SRTS programs;

Altering the economic structures in place to encourage healthy eating by students and reduce dependency on generating profits for the school from the sale of unhealthy foods;

Creating nutritional guidelines and limitations for school fundraisers operated on school premises from one half hour before school begins, during school hours and to one half hour after school ends;

Developing a financing plan to implement its policies;

Increasing the availability of organic fruits and vegetables and school gardens; and

Collaborating with local farmers' markets.

- (c) Each School Wellness Advisory Committee shall review and evaluate the school district policy every three years. This review shall ensure that the policy is in accordance with federal laws and regulations, and shall consider ongoing changes in nutritional standards and requirements for physical education. The evaluation shall include input from, but not be limited to, the following individuals or groups: the superintendent of schools, the school committee, the parent-teacher association, physical education teachers, nutrition and health education teachers, school nurses food service providers, and students. Upon completion of the evaluation, the School Wellness Advisory Committee shall

make recommendations to amend, change or rewrite the school/regional district wellness policy. Said reservations to the school/regional district wellness policy shall be completed prior to the start of the next school year following the completion of the evaluation.”.

The amendment was adopted.

Messrs. Pedone of Worcester and Binienda of Worcester then moved to amend the bill in lines 45 and 46 by striking out clause 2 contained therein and inserting in place thereof the following clause: “(2) beverages that are (i) water without additives or carbonation; (ii) non-sweetened carbonated water; (iii) 100 per cent fruit juice; (iv) nonfat or low-fat dairy drinks”.

The amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. Sánchez of Boston; and on the roll call 152 members voted in the affirmative and 4 in the negative.

[See Yea and Nay No. 284 in Supplement.]

Therefore the bill (House, No. 4459, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Bill passed to be engrossed,—
yea and nay
No. 284.

Mr. Pedone of Worcester being in the Chair,—

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Senate Bill relative to harassment prevention orders (Senate, No. 2212, amended) ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4443). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Mr. Kafka of Stoughton, for said committee reported that the matter be scheduled for consideration by the House, with the amendment pending.

Under suspension of Rule 7A, on motion of Mr. Murphy of Burlington, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means was adopted; and the bill (Senate, No. 2212, amended) was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Smizik of Brookline (Mr. Vallee of Franklin being in the Chair), the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays at the request of Mr. Koutoujian of Waltham; and on the roll call (Mr. Donato of Medford being in the Chair) 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 285 in Supplement.]

Therefore the bill (Senate, No. 2212, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment adopted by the House.

Harassment
prevention
orders.

Bill passed to be engrossed,—
yea and nay
No. 285.

Orders of the Day.

The House Bill relative to the town of Wilmington sewer system (House, No. 4061) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Third
reading
bill.

Senate bills

Punishing assault and battery by means of a bodily substance upon correctional facility employees (Senate, No. 997, amended);

Authorizing the board of assessors of the city of Quincy to grant tax abatements to certain military personnel (Senate, No. 1302); and

Designating a certain bridge in the towns of Orange and Wendell as the Franklin County Purple Heart Memorial Bridge (Senate, No. 1890); and

House bills

Relative to scrap metal dealers (House, No. 328, changed);

Relative to juror service (House, No. 1631);

To improve juror service (House, No. 1633);

Authorizing the town of Franklin to appropriate funds and incur debt for the purpose of removing overhead utilities and replacing the same with underground facilities (House, No. 4251);

Relative to the elections in the town of Wayland (House, No. 4256);

Designating a certain bridge in the town of Mansfield in honor of Edward Joseph Pazsit (House, No. 4338, changed);

Relative to the boundaries of the Fore River designated port area (House, No. 4360, changed); and

To provide the voters of the town of Bridgewater a choice of charters for new forms of government (House, No. 4413);

Severally were read a second time; and they were ordered to a third reading.

Second
reading
bills.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Next
sitting.

Accordingly, with further consideration of the remaining matters in the Orders of the Day, at twenty-five minutes after five o'clock P.M., on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.